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sec fax,sec, 4181087 --- Time Printed: 11-29-2006 09:27:36

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602 Sixth St
Weatherly, PA 18255

Phone: (570) 427-8681
Fax: (570) 427-8918

Weatherly Area School District

Fax

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NOV 29 2006

FCC - MAILROOM

To: Federal Communications Commission
Office of the Secretary

From: Martha Kew-Goodale

Fax: 202-418-0187

Pages: 9

Phone:

Date: 11/29/2006

Re: Appeal of USAC decision

CC: [Click here and type name]

☐ **Urgent** ☒ **For Review** ☐ **Please Comment** ☒ **Please Reply** ☐ **Please Recycle**

Good morning:

Attached is a letter requesting an appeal of the USAC's funding decision for Weatherly Area School District's (Billing Entity Number - 125951) 471 Application Number 532197.

Per the appeal instructions, the following information is included for reference:

CC Docket No. 96-45

CC Docket No. 02-6

Company Name:

Weatherly Area School District

BEN:

125951

Form Application Number

471 - 532197

Funding Request Number

1483451

Contact Name:

Martha Kew-Goodale

Address:

Weatherly Area School District

602 Sixth St

Weatherly, PA 18255

Phone Number

570-427-8681

Fax Number

570-427-8918

Email

kewgoodalem@weatherlysd.org

Thank you for your consideration in this matter

Sincerely,

Martha Kew-Goodale

Business Manager/Board Secretary

11/29/2006 10:00 AM
WASD

Weatherly Area School District

Gene Freeman, Ed.D.
Superintendent

Deborah J. Popson
Elementary/Middle School Principal

Martha Kew-Goodale
Business Manager/Secretary, Bd. of Education

Brian D. Baddick
High School Principal

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

November 6, 2006

RECEIVED & INSPECTED

NOV 29 2006

FCC - MAILROOM

Re: CC Docket No. 02-6
Request for Review
Appeal of Funding Commitment Decision Letter
Funding Year 2006: 07/01/06 – 06/30/07
Document Date 10/10/06
Billed Entity Number: 125951
Form 471 Application Number: 532197
Funding Request Number: 1483451

To Whom It May Concern:

This letter is to appeal the Funding Commitment Decision Letter dated October 10, 2006 for Funding Year 2006. This funding request was for Billing Entity # 125951, Weatherly Area School District. It was regarding Form 471 Application # 532197 and FRN 1483451.

The request was for telecommunication services for telephone service in our school district. The Funding Commitment Decision was denied due to a "Contract Violation." The explanation was that "No contract was in place when the Form 471 certification was filed."

The contract in question is with Verizon for our PRI telephone services. I have attached a copy of the contract for your review. I have been told that the issue with the contract is that it does not show the date that Verizon executed the contract. My signature and the date are clearly visible. Verizon's representative signature is visible but not the date. I do not feel that the district should be penalized for the lack of inclusion of this date by the vendor. The parties have acknowledged a 2-year service period for legal consideration. Authorized representatives of each of the parties have executed the contract. In all respects, the contract is legally binding between the parties. The failure of Verizon to notate the date of signature does not, in any way, effect the validity or enforceability of the contract.

Please note the following information from the Pennsylvania Department of Education when they presented to the Federal Communications Commission (12/19/05) to further evaluate this issue:

Prior to the Fifth Report and Order, the FCC did not explicitly prescribe that a contract requires the signature of both the applicant and the service provider in order for it to be valid for E-rate purposes. In fact, the FCC's rules in effect since

602 Sixth St Weatherly, PA 18255

Administrative Office: 570-427-8681
Administrative Fax: 570-427-8918

the inception of the program required that only the applicant's signature and not the service provider's signature. Section 54.504(b)(4) requires that an applicant wait at least four weeks from the posting of a FCC Form 470 "before making commitments with the selected providers of services." Section 54.504(c) states that an applicant, "upon signing a contract for eligible services" may submit a FCC Form 471. There is no requirement articulated in the FCC regulations that a contract must be signed by a service provider in addition to an applicant in order to be accepted as a valid E-rate contract.

The USAC-SLD 2003 Training Presentation on Service Provider Issues confirms that, as of that point in time, USAC did not impose a dual signature requirement. In the 2003 TTT presentation on program compliance, the SLD originally stated on slide 13 that "Contracts must be signed and dated by both parties." But, a printed correction was distributed and attendees were instructed to cross out that bullet, and insert in its place: "The FCC requires that the applicant sign a contract prior to filing the Form 471."

In August 2004, in the Fifth Report and Order in CC Docket No. 02-6, the FCC mentioned for the first time that contracts require the signature of both parties. This new requirement was imposed somewhat inadvertently as part of the five-year document requirements. Specifically, the Order states:

Contracts. Both beneficiaries and service providers must retain executed contracts, signed and dated by both parties. All amendments and addendums to the contracts must be retained, as well as other agreements relating to E-rate between the beneficiary and service provider, such as up-front payment arrangements.

This requirement was not issued directly in response to a question or issue concerning the required components of a valid contract, nor was it addressing what is considered a valid contract. It simply was language embedded in a list of documents that must be retained for five years. Indeed, up to this point, the SLD deferred to the requirements of state law to define the elements of a contract.

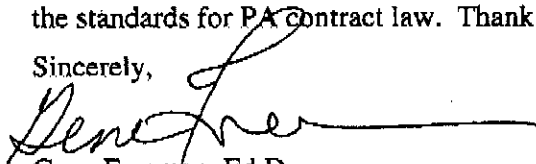
For the entire comments by the Pennsylvania Department of Education, please refer to the following website:

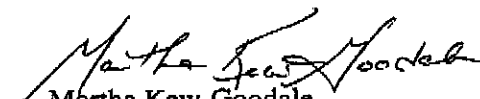
<http://www.e-ratepa.org/Docs/PA%20NPRM%20Reply%20comments%202005%20final.pdf>

As previously stated, the contract clearly has the signatures of both parties. It is dated by the school district but does not include the date of the vendor's signature. This was clearly an oversight and should not preclude the district from receiving E-Rate funding.

Please review this FRN and approve the funding request based on the existing contract that meets the standards for PA contract law. Thank you for your consideration.

Sincerely,


Gene Freeman, Ed.D
Superintendent


Martha Kew-Goodale
Business Manager/Board Secretary

602 Sixth St Weatherly, PA 18255

Administrative Office: 570-427-8681
Administrative Fax: 570-427-8918

**Universal Service Administrative Company**

Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2006: 07/01/2006 - 06/30/2007)

October 10, 2006

Martha Kew-Goodale
WEATHERLY AREA SCHOOL DISTRICT
602 6TH ST
WEATHERLY, PA 18255-1520

Re: Form 471 Application Number: 532197
Billed Entity Number (BEN): 125951
Billed Entity FCC RN: 0011750833
Applicant's Form Identifier: 471PHNYR9

Thank you for your Funding Year 2006 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$11,149.20 is "Denied."

Please refer to the Report on the page following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file Form 486 (Receipt of Service Confirmation Form). A guide that provides a definition for each line of the Report precedes the Report.

A list of Important Reminders and Deadlines is included with this letter to assist you throughout the application process.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

If you wish to appeal a decision in this letter, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant,
 - Applicant BEN and Service Provider Identification Number (SPIN),
 - Form 471 Application Number 532197 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2006," AND
 - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981

While we encourage you to resolve your appeal with USAC first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

NOTICE ON RULES AND FUNDS AVAILABILITY

An applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each funding request in your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by USAC.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by USAC to each Block 5 of your Form 471. This number is used to report to applicants and service providers the status of individual funding requests submitted.

FUNDING STATUS: Each FRN will have one of the following statuses:

1. "Funded" - the FRN is approved for support. The funding level will generally be the level requested unless USAC determined during the application review process that some adjustment is appropriate.
2. "Not Funded" - the FRN is one for which no funds were committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for the Funding Year was insufficient to fund all requests.
3. "As Yet Unfunded" - a temporary status assigned to an FRN when USAC is uncertain at the time the letter is sent about whether sufficient funds exist to make commitments for requests for Internal Connections Other than Basic Maintenance or Basic Maintenance of Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and with an "As Yet Unfunded" status on your Internal Connections requests. You would receive one or more subsequent letters regarding the funding decisions on your Internal Connections requests.

CATEGORY OF SERVICE: The type of service ordered from the service provider, as shown on your Form 471.

FORM 470 APPLICATION NUMBER: The Form 470 Application Number associated with this FRN from Block 5, Item 12 of the Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by USAC to service providers seeking payment from the Universal Service Fund Programs. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider, if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes, if a Billing Account Number was provided on your Form 471.

SERVICE START DATE: The Service Start Date for this FRN from Block 5, Item 19 of your Form 471.

CONTRACT EXPIRATION DATE: The Contract Expiration Date for this FRN from Block 5, Item 20b of your Form 471, if a contract expiration date was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a for "site specific" FRNs only.

NUMBER OF MONTHS RECURRING SERVICE PROVIDED IN FUNDING YEAR: The number of months of service that has been approved for the funding year, for recurring services.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY USAC: The discount rate that USAC approved for this service.

FUNDING COMMITMENT DECISION: The total amount of funding that USAC has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that both you and your service provider recognize that USAC should be invoiced and that disbursement of funds will be made only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FCDL DATE: The date of this Funding Commitment Decision Letter (FCDL).

WAVE NUMBER: The wave number assigned to FCDLs issued on this date.

LAST ALLOWABLE DATE FOR DELIVERY AND INSTALLATION FOR NON-RECURRING SERVICES: The last date approved by the FCC for delivery and installation of eligible non-recurring services (e.g., equipment). (The last allowable date for delivery and installation of recurring services is always the last day of the fund year, that is, June 30, 2007 for Funding Year 2006.)

FUNDING COMMITMENT REPORT
Billed Entity Name: WEATHERLY AREA SCHOOL DISTRICT
BEN: 125951
Funding Year: 2006

Form 471 Application Number: 532197
Funding Request Number: 1483451
Funding Status: Not Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 350880000568151
SPIN: 143001398
Service Provider Name: Verizon Pennsylvania Inc.
Contract Number: N/A
Billing Account Number: N/A
Service Start Date: 07/01/2006
Contract Expiration Date: 06/30/2008
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$19,560.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$19,560.00
Discount Percentage Approved by the USAC: N/A
Funding Commitment Decision: \$0.00 - Contract Violation
Funding Commitment Decision Explanation: No contract was in place when the Form 471 certification was filed.
FCDL Date: 10/10/2006
Wave Number: 025
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

08/31/2006 10:28 5704278918

WASD

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APPLICATION FOR SERVICE

Customer Name: Weatherly School District	Main Billing Tel. No: 570-427-2000
Address: 802 E. 6th Street Weatherly PA 18255	VSA No. (if applicable) N/A Amendment No. (if applicable) N/A

Customer applies for and agrees to purchase from Verizon Pennsylvania Inc. ("Verizon") the services identified below and as further described in Verizon's applicable tariffs (the "Services"), for a minimum period of 2 Years (24) consecutive months following execution of this Application and commencement of Services hereunder (the "Service Period"). The Services will be provided subject to the terms and conditions of Verizon's applicable tariffs in effect during the Service Period (the "Tariffs"), which are incorporated by this reference, and subject to the availability of suitable facilities.

If Customer terminates this Application or any Services prior to expiration of the Service Period, Customer will promptly pay to Verizon any termination and cancellation charges specified in the Tariffs. The rates for the Services shall be as set forth in the Tariffs, which rates are summarized below. Customer shall also pay all applicable charges, fees, taxes and tariff surcharges, including federal End User Common Line Charges, charged pursuant to applicable law, regulations or Tariffs.

Quantity	Service Provided pursuant to (check one): <input type="checkbox"/> State Tariff <input checked="" type="checkbox"/> FCC Tariff	Monthly Unit Rate	Non-recurring Charges / Unit
3	Blocks of 20 DID #'s @ \$5.60 per block	\$ 16.80	N/A
1	Port Recovery	\$ 23.43	N/A
1	Federal Line Cost Charge	\$ 29.60	N/A
1	23 B&D Channels	\$285.00	N/A
1	Remote Host	\$100.00	N/A
1	Feature Package 2	\$239.00	N/A
1	Universal Service Fund Surcharge	\$ 9.95	N/A
1	PR/PIPE	\$143.00	N/A
1	DID Trunk Package	\$123.00	N/A

The Services will be provided at the following Customer locations:

802 E. 6th Street, Weatherly PA

The provision of any additional locations and/or quantities of Services will be subject to Verizon's applicable Tariffs. Additional charges may also be required if suitable facilities are not available to provide the Service at any locations.

Verizon may assign or transfer part or all of this Application to any of its affiliates. Upon reasonable prior written notice to Verizon and consistent with applicable Tariff supersedure or other regulatory requirements, Customer may assign or transfer this Application to any company that is the successor to substantially all of its assets. All other attempted assignments shall be void without the prior written consent of the other party.

This Application and the Tariffs constitute the entire agreement between Customer and Verizon regarding the Services, and supersede all prior oral or written quotations, communications, understandings or agreements. In the event of a conflict between the Tariffs and this Application, the Tariffs shall control. Customer represents that its execution of this Application is based solely on its independent assessment of the rights and obligations set forth herein and not on any other oral or written quotations, communications, understandings or agreements.

Agreed and accepted:

Weatherly Area School District (Customer)

By

Name/Title

Verizon State and FCC-021706

Verizon Pennsylvania Inc.

By

Name/Title

ESC # 0535

AUG 31 2006 11:40

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